

**PD-1042-18**  
In the Court of Criminal Appeals of Texas  
At Austin

FILED  
COURT OF CRIMINAL APPEALS  
1/14/2019  
DEANA WILLIAMSON, CLERK

—◆—  
**No. 01-16-00768-CR**  
In the Court of Appeals  
For the First District of Texas  
At Houston

—◆—  
**No. 1487627**  
In the 337<sup>th</sup> District Court  
Of Harris County, Texas

—◆—  
**Ruben Lee Allen**  
*Appellant*

*v.*

**The State of Texas**  
*Appellee*

—◆—  
**State's Motion for Extension of Time  
To File Brief on State's PDR**  
—◆—

To the Honorable Court of Appeals:

The State of Texas asks for an extension of seven days (until January 18, 2019) to file its brief regarding its petition for discretionary review. The following facts are relevant:

1. The appellant was indicted for aggravated robbery. (CR 22). The indictment alleged a prior felony conviction. (CR 22). The appellant pleaded not guilty, but a jury found him guilty as charged. (4 RR 5;

CR 111). The jury found the enhancement allegations true and assessed punishment at twenty-five years' confinement. (CR 121). The trial court certified the appellant's right of appeal, and the appellant filed a timely notice of appeal. (CR 127, 130).

2. A split panel of the First Court affirmed the trial court's judgment on August 30, 2018.
3. This Court granted petitions for discretionary review from both the State and the appellant on December 12, 2018.
4. The State's brief regarding its petition for discretionary review was due on Friday, January 11, 2019. The State's appellate counsel would have filed this motion that day, except he wrote on his calendar that the brief was due on Monday, January 14, 2019, and he had hopes of finished the brief over the weekend. He regrets this error.
5. This is the State's first request for extension.
6. Since this Court granted the State's petition, the State's appellate counsel has missed two weeks of work due to an illness and a pre-planned Christmas vacation. In the two weeks he has been at the office during this time period he has worked on the following appellate matters:

- a. Mark Mason  
No. 14-18-00505-CR  
Brief filed December 19, 2018
- b. Jonathan Steven Guevara  
No. 14-18-00144-CR  
Brief filed December 20, 2018
- c. Stanley Macon  
No. 14-18-00103-CR  
Brief filed December 21, 2018
- d. Michael Reshkovsky  
No. 01-18-00259-CR  
Brief filed January 2, 2019
- e. Roberto Pacas  
Nos. 01-18-01016-CR *et seq.*  
Brief filed January 9, 2019

7. Given the subject matter of the State's point of error, the State's appellate counsel has conducted an unusual amount of historical research for this brief. He is a lawyer, not an historian, thus this is a slow and not always fruitful process. This partially explains both the tardiness of the brief as well as the on-again-off-again periods of time he has devoted to it.
8. The State's appellate counsel has every reason to believe the State's brief will be finished no later than Friday, January 18.

The State asks this Court to grant the requested extension.

Respectfully submitted,

/s/ C.A. Morgan

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### **Certificate of Service**

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/s/ C.A. Morgan

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Date: January 14, 2019